

REMARKS

Favorable reconsideration of this application is respectfully requested in view of the above amendments and following remarks. Claim 12 is amended. The specification is amended, namely to correct translation errors in the name of the International publication WO02/36779 and provide updated name and address information for the original deposit institute of the disclosed KS1 strain. No new matter has been added. Claims 1, 6-9, 11-14, and 24 are pending.

Applicants appreciate the Examiner's acknowledgment of Applicants' claim for priority in the previous Office Action dated June 13, 2006. Applicants again note, however, that the claim for priority was acknowledged in the body of the June 13, 2006 Office Action (in the Detailed Action portion of the paper), rather than on the Office Action Summary (PTOL-326), as the proper boxes were left unchecked in this form. Applicants respectfully request that the acknowledgement of priority be indicated on the next communication summary page.

Turning to the substance of the Office Action, claim 12 was rejected under 35 U.S.C. 112, second paragraph, as being indefinite. Applicants respectfully traverse this rejection to the extent it is maintained.

Claim 12 no longer depends upon a canceled claim, and now depends upon claim 1. Claim 12 further recites the α , β , and γ subunits, which are recited in claim 1.

Withdrawal of the rejection is respectfully requested.

Claim 11 was rejected under 35 U.S.C. 112, first paragraph, for lacking enablement. Applicants respectfully traverse this rejection to the extent it is maintained.

Applicants respectfully submit that this rejection is overcome, because Applicants' representative and attorney of record provides the statement as required in the Office Action for organisms deposited under the Budapest Treaty. The statement is attached herewith, and Applicants provide a copy of the receipt confirming such deposit.

Withdrawal of the rejection is respectfully requested.

Claims 1, 6, 7-9, 10-14, and 24 were rejected under 35 U.S.C. 103(a) as being unpatentable over Shimomura et al. (above) in view of Inose et al. (Biochemia biophysica acta 2003, 133-138). The rejection is rendered moot for at least the following reasons.

Inose et al. is not available as prior art, because Applicants submit a verified English translation of the foreign priority application, and which is attached herewith. Applicants' foreign priority application was filed August 30, 2002, which predates the November 11, 2002 publication date of Inose et al. The rejection is rendered moot for at least these reasons, and Applicants do not concede the correctness of the rejection.

Withdrawal of the rejection is respectfully requested.

In view of the above amendments and remarks, Applicants believe that the pending claims are in a condition for allowance. Favorable consideration in the form of a Notice of Allowance is respectfully solicited. If any questions arise regarding this communication, the Examiner is invited to contact Applicants' representative listed below.



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Respectfully submitted,

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